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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,476	01/31/2006	Kazuhiro Murata	0234-0507PUS1	5098
2292 7590 05/21/2010 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER SULTANA, NAHIDA				
ART UNIT		PAPER NUMBER		
1791				
NOTIFICATION DATE		DELIVERY MODE		
05/21/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/566,476

Applicant(s)

MURATA ET AL.

Examiner

NAHIDA SULTANA

Art Unit

1791

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 May 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: See Continuation Sheet.

/Joseph S. Del Sole/
Supervisory Patent Examiner, Art Unit 1791

Continuation of 3. NOTE: Applicant's argument and amended claims filed on 05/11/2010 have been fully considered but they are not persuasive. Examiner respectfully disagrees and concludes that amended claims cannot be entered as they would raise new issue due to new change in scope of the claims with respect to "solidified substances after landing on the substrate." Applicant previously claimed having droplet solidifying during the flight to be landing, and this limitation is different from having droplets dried after landing on the substrate because new limitation now requires substrate to be either heated, or waiting until materials are dried. As opposed to old limitation, drying during the flight to be landing, it could have been the material property, or the environment, or the voltage applied to the droplet, or size of the droplet which may lead to instant drying, and applicant did not clarified this limitation properly. Therefore, the change in the scope of the claim requires a new search.

Continuation of 13. Other: Applicant's argument regarding 102 rejection, for claims 1, 32, 35, and 36 are found to be persuasive and are therefore, withdrawn. However, Rejection under 103 Danforth in view of Sachs, (for claims 1, 3-6, 8-13, 23, 24, 35) , and in further view of Hayes for claims 7, 14-22, 32 and in further view of Uchiyama for claims 32-34, 36 are proper and are not withdrawn. Applicant mainly argued there is no disclosure of stacking the droplets of binder material and such stacking would serve no purpose in binding layers material in Sachs et al. Examiner disagrees. A 103 combination Danforth (US Patent 5, 997, 795) in view of Sachs is proper for the reasons: a) Danforth discloses in a case of ink jet printing similar to solid freeform fabrication, materials may be deposited layer by layer as droplets in order to form three dimensional object (col. 25. lines 45-55), b) examiner used Sachs et al. to show that smaller sized particles such as droplets are possible with the used of voltage applied to the nozzle where droplets are stacked/overlapped (col. 4. lines 10-30, col. 5. lines 20-35), c) the overlapping of droplets to a porous material in a controled manner forms the 3D articles, d) furthermore, it is well known in the technology to use 3D prining by overlapping or depositing droplet. Both Danforth and Sachs et al. together shows the claim render obvious over the prior art.